



Shelby County Tennessee

A C Wharton, Jr., Mayor

Request for Proposal Shelby County Government Purchasing Department

160 N. Main, Suite 550
Memphis, TN 38103

Issued: April 23, 2008

Due: May 9, 2008 no later than 3:00 P.M. (Central Standard Time)

RFP #08-004-80

Redundant Power and Cooling Solution

Shelby County Government is soliciting written proposals, on a competitive basis, from qualified companies or professionals to provide a redundant power and cooling solution to the Information Technology department. Information regarding this RFP is located on the County's website at www.shelbycountyttn.gov. Go to "Purchasing Bids" under Online Services on the home page to locate the above-described RFP.

The proposal, as submitted, should include all estimated costs related to the services requested by the RFP specifications. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government. Your proposal must be received in the office of the Administrator of Purchasing **no later than 3:00 p.m. on Friday, May 9, 2008.** Proposals should be addressed to:

Debra D. Louis, Buyer
Shelby County Government
Purchasing Department
160 N. Main St., Suite 550
Memphis, TN 38103

The package containing an original copy (clearly identified as original) and six (6) copies of your proposal must be sealed and marked with the Proposer's name and "CONFIDENTIAL, REDUNDANT POWER AND COOLING SOLUTION, RFP #08-004-80" noted on the outside.

Sincerely,

Debra D. Louis, Buyer
Shelby County Government
Purchasing Department

cc: Mike Pachis, Administrator, Information Technology
Clard Baker, Manager, Operations
Daryl Atkinson, Interim Manager, Technical Support Group
Steve Solaas, Lead Network Engineer, Technical Support Group

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Note: Please make sure you pay close attention to Sections: I-V, IX & XI. These sections will clearly outline what information is required to properly respond and prepare your RFP response.

I. INTRODUCTION

Shelby County (the “County”) is seeking proposals from interested and qualified companies to provide a redundant power and cooling solution for the data center located at 6470 Haley Road (the “Services”). This Request for Proposal (“RFP”) is being released to invite interested and qualified companies to prepare and submit proposals in accordance with instructions provided, where the successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP. In this RFP, the terms Proposer and Consultant are used interchangeably unless the context indicates otherwise.

II. MINIMUM PROPOSER REQUIREMENTS

All Proposers must:

1. Have a minimum of three (3) years experience providing the Services.
2. Have all appropriate licenses and certifications required in the State of Tennessee to provide the Services and procure all permits, pay all charges, taxes and fees.
3. Respond completely to the requested specifications outlined in the RFP.
4. Have a valid Equal Opportunity Compliance (EOC) certification number or apply for an EOC number through our EOC Administration (*see the details outlined in Section VII General Requirement / e. Selection Criteria*).
5. Adhere to all Title VI requirements and provide proof/documentation if necessary.

Please Note: As a part of doing business with Shelby County, each individual, company or organization is required to obtain a vendor number and an “Equal Opportunity Compliance” certification number. The vendor # is obtained through the Purchasing Department and the EOC certification is obtained through the Shelby County EOC Administration. If you have any questions regarding the vendor # please call the Purchasing Department @ 901-545-4360 or download the Bidder’s List Application & the W-9 at http://www.shelbycountyttn.gov/FirstPortal/dotShowDoc/dotContent/Government/CountyServices/AdminandFinance/bidder_app.pdf and <http://www.shelbycountyttn.gov/FirstPortal/dotShowDoc/dotContent/Government/CountyServices/AdminandFinance/fw9.pdf>

If you have any questions regarding the EOC qualification, please call 901-545-4336 or download the document at http://www.shelbycountyttn.gov/FirstPortal/dotShowDoc/Government/CountyServices/AdminandFinance/eoc_contract_comply_v2.pdf

*****You may respond to this solicitation if you have at least applied for a vendor # and the certification. Please include a copy of the applications that you submitted with your proposal response.***

III. CORRESPONDENCE

All correspondence, proposals and questions concerning the RFP are to be submitted to:

**Debra D. Louis, Buyer
Shelby County Government
160 N. Main St. Suite 550
Memphis, TN 38103**

Respondents requesting additional information or clarification are to contact Ms. Debra D. Louis in writing at debra.louis@shelbycountyttn.gov or at the address listed above. Questions should reference the section of the RFP to which the question pertains and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be May 1, 2008 by 12:00 p.m. (CST).*** These guidelines for communication have been established to ensure a fair and equitable process for all respondents.

Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County regarding this RFP may disqualify your company from further consideration.

IV. PROPOSAL SUBMISSION & DEADLINE

All proposals must be received at the address listed above no later than **May 9, 2008 @ 3:00 p.m. (CST)**. Facsimile or e-mailed proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered. Under no circumstances, regardless of weather conditions, transportation delays, or any other circumstance, will this deadline be extended.

V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective Proposers shall be notified.

**Request for Proposals Released
Proposal Due Date
Notification of Award**

**Wednesday, April 23, 2008
Friday, May 9, 2008 by 3:00 pm
May/June 2008**

The County may reproduce any of the Proposer's proposal and supporting documents for internal use or for any other purpose required by law.

VI. PROPOSAL CONDITIONS

a. Contingencies

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Proposers, in writing, if the County rejects all proposals.

b. Modifications

The County reserves the right to issue addenda or amendments to this RFP.

c. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the Proposer's responsibility to ensure that its proposals arrive on or before the specified time.

d. Incurred Costs

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the Proposer's responsibility.

e. Final Authority

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

f. Proposal Validity

Proposals submitted hereunder will be firm for at least ninety (90) calendar days from the due date unless otherwise qualified.

g. LOSB

The County encourages the utilization of locally-owned small businesses as sources of subcontract work. The County notifies all respondents that all firms and/or individuals shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Title VI of the Civil Rights Act of 1964, as amended.

LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:

- (i) The Administrator of Purchasing in conjunction with the Administrator

of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.

(ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.

(iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.

(iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.

(v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.

(vi) Failure by a supplier or contractor to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.

(vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$500,000.00;
- b. A preference of up to three and five-tenths percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

(x) For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution.

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

h. Living Wage

Shelby County Government Ordinance # 328 “Living Wages” is hereby incorporated into this Request for Proposal and any resulting contract. Please make sure that you review and apply the requirements of the ordinance to your proposal response. Failure to do so will result in disqualification from the review and award process. You may view and print the ordinance as a separate attachment for this RFP (*please do not forget to download ALL the additional attachments*).

VII. GENERAL REQUIREMENTS

a. Background

The County is in the process of making modifications to the data center located at 6470 Haley Rd. As computer technology has evolved over the past few years, the floor space, power, and cooling requirements have changed. The County is seeking a redundant power and cooling solution to meet the evolving needs of our multi-vendor, high-density computer systems.

b. Scope of Contract

The County wishes to engage in a contractual relationship with the best-qualified Proposer selected through a competitive process that will work well with the County's personnel in the performance of the Services in a manner that is cost-effective and practical. The successful respondent must be prepared to begin immediately upon receipt of a Notice to Proceed with a maximum of 90-day operational date after execution of agreement.

c. Project Time Frame

The County would like to have the proposed solution in place and training completed within 90 days of Notice to Proceed.

d. Reservation of Rights

The County reserves the right, for any reason to accept or reject any one or more proposals, to negotiate the term and specifications for the services provided, to modify any part of the RFP, or to issue a new RFP.

The County may at any reasonable time, at its expense, make an audit of the Provider's books relative to the accounts.

e. Selection Criteria

Each response will be evaluated on the criteria outlined in Section XII of this document. Each bidder should set out in its response to this RFP to clearly identify the qualifications of its company and each individual who will work on this project.

As part of the qualification process each vendor will be required to apply for an EOC # and provide workforce utilization information. Please contact the EOC Administration @ 901-545-4336 to obtain the necessary documents and to ask any questions that you may have regarding this information. The EOC application is available online at the following link:

http://www.shelbycountyttn.gov/FirstPortal/dotShowDoc/Government/CountyServices/AdminandFinance/eoc_contract_comply_v2.pdf

During the evaluation process, Shelby County Government reserves the right to consider the vendor's EOC rating in the evaluation.

f. Additional Information and References

All Proposers must provide the County with contact information for three (3) reference clients. The references must be clients of the proposer, and they must have deployments similar in profile to the County's data center at 6470 Haley Road.

VIII. AWARD OF CONTRACT

Proposers are advised that the lowest cost proposal will not necessarily be awarded the contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor.

IX. PURPOSE

To select the best-qualified firm and award a County-approved contract for professional services to perform the Services and to satisfactorily complete all activities associated with the Services.

Current Challenges

The County's data center at 6470 Haley Rd. has evolved over the past ten years from a main-frame environment to a high-density server environment. The facility is now being remodeled, converting wasted computer room space into storage and office space, and relocating and consolidating the server and communications equipment into a much smaller area. At this time the "Server Room" is intended to be administered remotely.

The existing cooling equipment is not suited for the high-density, rack-mounted computers currently installed, and requires significant floor space for maintenance clearances. The existing backup power environment has failed in the past, revealing single points of failure, and manual recovery procedures.

The dissimilar, multi-vendor computer and communications equipment has contributed to an inefficient use of floor space as several different rack / cabinet types are used to accommodate differing mounting requirements. Additionally, the existing power and cooling deployment will only support half of a cabinet populated with high-density computer equipment, thus resulting in a 50% waste of floor space for each existing equipment cabinet.

In summary, the current challenges faced are:

- Single points of failure with manual recovery
- Inefficient cooling
- Reduced floor space availability, with growth expected
- Multi-vendor racking requirements
- Remote monitoring and administration

Goals & Objectives

The Proposed Solution must meet the following goals and objectives:

1. Provide redundant, automated failover, backup generator power for the entire facility, with preference for the critical load. Eliminate all feasible single points of failure.
2. Provide expandable, redundant, automated failover, UPS power for the computer and communications systems, with sufficient density to enable full usage of each 42U equipment cabinet. Eliminate all feasible single points of failure.
3. Provide redundant, air conditioning for the computer and communications systems, with sufficient capacity to enable full usage of each 42U equipment cabinet. Eliminate all feasible single points of failure.
4. Reduce the total floor-space requirements of the UPS, air conditioning, and computer and communications equipment.
5. Provide a remote monitoring and administration interface to the power and air conditioning systems, with fault notification.

General Requirements

The proposed solution must be a turn-key solution, where one vendor will be selected to provide the required hardware, software, installation, and implementation services. This includes all mechanical,

electrical, HVAC, and plumbing services required, as well as any assembly, start-up, and configuration services.

The selected vendor will be responsible for disconnection of existing UPS and computer room cooling equipment. Shelby County will be responsible for disposal of the disconnected equipment.

The selected vendor will work closely with Shelby County Information Technology personnel on planning and scheduling of all facets of the installation and implementation in order to minimize impact to existing computer and communications systems.

The County has selected APC InfrastruXure components as the standard for future server deployments; therefore, all of the Specific Requirements of this RFP will reference APC model numbers where applicable. Substitutions for APC models must be approved by Shelby County Information Technology prior to proposal submission.

All proposed APC hardware must include three years (3 yrs) of on-site, Next Business Day, maintenance coverage. All proposed APC air conditioning equipment must include three years (3 yrs) of on-site, Next Day, maintenance coverage.

Specific Requirements (See Appendix-A for proposed Server Room layout)

1. Redundant Automated Failover of Generator Power:

The County has two 200KW Onan DYH-4XR/13556 B diesel generators, with a pair of Generac 18-light, remote-start, annunciators at the Haley Rd. site. The gensets are coupled to building power through a pair of Zenith Controls ZTGK40EC-7 Automatic Transfer Switches (ATS), with MX100 controllers. The current configuration uses one generator to power the computer room and the other generator to power the rest of the facility. There is a manually operated tie breaker to transfer the entire facility to one generator or the other in the event of a generator failure. The County would prefer to “reuse” genset / ATS components that will be suitable to meet the goals of this RFP. The peak power usage for the Haley Rd. facility for the past 12 months is 113KW

The proposed solution must reconfigure, upgrade, or replace the existing backup generator system (gensets, ATS, controllers, panels, breakers, wiring, etc.) so that the resulting system meets the following criteria:

- 1.1.** When utility power fails, both gensets must start automatically, one genset assumes the entire load, the other genset shuts down.
- 1.2.** Both gensets must be configured so that critical subsystem indicators (temperature, oil pressure, RPM, voltage, frequency, etc.) are monitored, recorded, and appropriate problem notifications sent. The gensets must be configured to shut-down when subsystem parameters indicate that continued operation will result in engine or equipment damage.
- 1.3.** The unused genset must start automatically and assume the entire load in the event of impending failure of the active genset (overheat, low oil pressure, etc.).
- 1.4.** Each genset / ATS must have a feeder (3-phase, 480VAC) to one of the APC Symmetra PDU's. The power paths must be configured so that there is no single point of failure that can remove power from both data center UPS's.

2. Expandable, Redundant, Automated Failover, UPS Power:

The existing computer and communications systems are utilizing approximately 8KW. This load is expected to double over the next three years.

The proposed solution must accept the power feeds from the backup generator-ATS systems (3-phase, 480VAC), and provide redundant power to the computer and communications systems. These requirements are met by the following:

- 2.1.** Two (2) APC SY30K40F UPS's with appropriate options
- 2.2.** Two (2) APC PD40G6FK1-M PDU's with appropriate options
 - Distribution Circuit breakers
 - Blank panels
 - Distribution power cordsets

3. Redundant Air Conditioning:

The proposed solution must provide redundant cooling for the computer and communications systems. These requirements are met by the following:

- 3.1.** Two (2) APC ACRP101 in row RP DX air conditioners with appropriate options
 - APC AP9325 Leak Sensors
 - Stagger motor start-ups to prevent excessive in-rush current
- 3.2.** Two (2) APC ACCD75205 condenser units with appropriate options
 - APC ACAC75005 FM flooded receivers
 - Stagger motor and compressor start-ups to prevent excessive in-rush current

4. APC InfraStruXure Cabinets and Related Components:

The existing computer and communications systems are utilizing approximately 457 Rack Units (RU) of vertical space in a floor space foot print that should provide 840RU. The County expects to relocate an additional 50RU of servers to this site over the next two years.

The proposed solution must provide maximum utilization of existing floor space, by enabling full usage of each 42U enclosure, through integration with the APC power distribution and in-row cooling for the computer and communications systems. These requirements are met by the following:

- 4.1.** Nine (9) APC AR3100 NetShelter SX racks with the following options
 - Two (2) APC AP7961 Rack PDU's, Switched, Zero-U (one connected to UPS-A, one connected to UPS-B)
 - APC rack-top cable management (power trough & data partition)

- 4.2. Four (4) APC AR3100 NetShelter SX racks with the following options
 - Two (2) APC AP7960 Rack PDU's, Switched, Zero-U (one connected to one UPS, one connected to the other UPS)
 - APC rack-top cable management (power trough & data partition)
- 4.3. One (1) APC AR3150 NetShelter SX (wide) rack with the following options (for data cable & patch panel management)
 - Two (2) APC AP7960 Rack PDU's, Switched, Zero-U (one connected to one UPS, one connected to the other UPS)
 - APC rack-top cable management (power trough & data partition)
 - APC side-channel cable troughs & brush strips
- 4.4. APC InfraStruXure Monitoring and Management
 - APC AP92200 InfraStruXure Manager with APC AP9435 Incident Management Module
 - Appropriate number of InfraStruXure Manager Licenses
 - Appropriate number of APC Environmental Monitoring Units
 - Appropriate number of APC AP9335T Temperature Sensors for monitoring intake temperatures (upper & lower for every other NetShelter SX Enclosure)
 - Appropriate APC interconnection network switches and cabling to connect to InfraStruXure UPS's, PDU's, Rack PDU's, Cooling Units, Environmental Monitoring Units, and (if possible) genset / ATS controllers.
- 4.5. Miscellaneous NetShelter SX components
 - Two (2) APC ACF202BLK Rack Side Air Distribution Unit
 - One (1) set of APC AR8136BLK200 Airflow Management Blanking Panels
 - One (1) set of APC six-inch & twelve-inch cable ladders with attachment hardware for routing power and data cables between rows
 - Ten (10) APC AR8122BLK shelves
 - Twenty-six (26) APC AR8100 M6 Mounting Kits for mounting 207 devices

5. UPS Power for Non-Rack Telephone Equipment:

The County has several pieces of telephone equipment located on or near the West and South walls of the Server Room at 6470 Haley Rd. The proposed solution must provide UPS power for this telephone equipment.

The UPS power must be installed as follows:

- 5.1. Two (2) 120VAC duplex 20A receptacles on the south wall, each on its own dedicated 20A circuit
 - One receptacle connected to PDU-A, the other connected to PDU-B
 - Label each receptacle with its panel and breaker

5.2. Four (4) 120VAC duplex 20A receptacles on the west wall, each on its own dedicated 20A circuit

- Two receptacles connected to PDU-A, the others connected to PDU-B
- Label each receptacle with its panel and breaker

X. CONTRACT REQUIREMENTS

The successful Proposer will be expected to enter into a contract incorporating the following terms and conditions, and such additional terms and conditions standard to services of this type.

a. General Requirements

1. Control. All services by the Consultant will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.

2. Consultant's Personnel. The Consultant certifies that it presently has adequate qualified personnel to perform all services required under this Contract. All work under this Contract will be supervised by the consultant. The Consultant further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.

3. Independent Status. (a) Nothing in this Contract shall be deemed to represent that the Consultant, or any of the Consultant's employees or agents, are the agents, representatives, or employees of the County. The Consultant will be an independent consultant over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give County the right to direct the Consultant as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Consultant is solely for purposes of compliance with local, state and federal regulations and means that the Consultant will follow the desires of the County only as to the intended results of the scope of this Contract.

(b) It is further expressly agreed and understood by the Consultant that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the Provider has been retained by the County to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Consultant for services performed shall be on the Consultant's letterhead.

4. Termination Or Abandonment. (a) It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:

- (i) The Consultant or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.
- (ii) The Consultant has subcontracted, assigned, delegated, or transferred its rights, obligations or interests under this Contract without the County's consent or approval.
- (iii) The Consultant has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Consultant's assets.

(b) The County may terminate the Contract upon five (5) days written notice by the County or its authorized agent to the Consultant for Consultant's failure to provide the Services specified under this Contract.

(c) This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of such termination, the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Consultant shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

(d) All work accomplished by the Consultant prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of the County prior to payment for services rendered.

(e) Notwithstanding the above, the Consultant shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Consultant and the County may withhold any payments to the Consultant for the purpose of setoff until such time as the exact amount of damages due the County from the Consultant is determined.

5. Subcontracting, Assignment Or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the Consultant from performance of its duties under this contract. The County shall not be responsible for the fulfillment of the Consultant's obligations to its transferors or subcontractors. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Consultant covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the

performance of its services. The Consultant warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-contractor to the Consultant in connection with any work contemplated or performed relative to this Contract.

7. Covenant Against Contingent Fees. The Consultant warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. Employment Of County Workers. The Consultant will not engage, on a full or part-time, or other basis during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of the Contract in the employ of the County.

9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Consultant and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.

10. General Compliance With Laws. (a) If required, the Consultant shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

(b) The Consultant is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, the Americans with Disabilities Act (ADA), and all state and local laws, rules and regulations pertaining to electrical requirements of residential construction and renovation.

(c) This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Consultant agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

11. Nondiscrimination. The Consultant hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Consultant on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Consultant shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.

13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

15. No Waiver Of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.

18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by the County.

19. Incorporation Of Other Documents. (a) The Consultant shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids incorporated herein by reference.

(b) It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Consultant shall take affirmative action to utilize Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.

21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

22. Waiver Of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to the County by the Consultant, the Consultant understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to the County by the Consultant due to the Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

23. Organization Status And Authority. (a) The Consultant represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the State of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

(b) The execution, delivery and performance of this Contract by the Consultant has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Consultant, any provision of any indenture, agreement or other instrument to which the Consultant is a party, or by which the Consultant's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

24. Warranty. The Consultant warrants to the County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.

25. Rights in Data. The County shall become the owner, and the Consultant shall be required to grant to the County, or its successors, a perpetual, non-exclusive, non-transferable, royalty-free right, in the County's name, to use any deliverables provided by the Consultant under this Contract, regardless of whether they are proprietary to the Consultant or to any third parties.

26. Consultant Responsibilities.

A. INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Responsibilities For Claims And Liabilities. (a) The Consultant shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the duties hereunder, whether performed by the Consultant its sub-contractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

(b) The Consultant expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Consultant shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

(c) The County has no obligation to provide legal counsel or defense to the Consultant or its sub-contractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Consultant as a result of or relating to obligations under this Contract.

(d) Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Consultant as a result of or relating to obligations under this Contract.

(e) The Consultant shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of any claim or suit made or filed against the Consultant or its sub-contractors regarding any matter resulting from or relating to the Consultant's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof.

2. Insurance Requirements. The Consultant will provide evidence of the following insurance coverage:

The Consultant/provider shall maintain coverage with limits of no less than:

- 1) *Commercial General Liability Insurance* – Limits of no less than \$1,000,000 limit per occurrence bodily injury and property damage/\$1,000,000 personal and advertising injury/\$2,000,000 General Aggregate/\$2,000,000 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees and employees shall be named as additional insureds. The insurance shall include coverage for the following:
 - a) Premises/Operations
 - b) Products/Completed Operations
 - c) Contractual
 - d) Independent Contractors
 - e) Broad Form Property Damage
 - f) Personal Injury
- 2) *Business Automobile Liability Insurance* – Limit of no less than \$1,000,000 each accident for property damage and personal injury. Coverage is to be provided on all:
 - a) Owned/Leased Autos
 - b) Non-owned Autos
 - c) Hired Autos
- 3) *Workers Compensation and Employers' Liability Insurance* - Workers Compensation statutory limits as required by Tennessee. This policy should include Employers' Liability Coverage for \$500,000 per accident.
- 4) *Professional or Errors & Omissions Liability Insurance* – minimum limit of \$1,000,000 per claim.
- 5) *Umbrella or Excess Liability Insurance* – minimum limit of \$1,000,000.
- 6) *Installation Floater Insurance* - All risk coverage in the amount of the equipment which is to be installed.

Shelby County Government, its elected officials, appointees, employees, volunteers and members of its boards, agencies, commissions and committees are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor or premises on which Contractor is performing services on behalf of the County. The coverage shall contain no special limitations on the scope of protection afforded to Shelby County Government, its elected officials, appointees, employees, volunteers and members of its boards, agencies, commissions and committees.

The Contractor's insurance coverage shall be primary insurance as respects the County, its elected officials, appointees, employees, its elected officials, appointees, employees, volunteers and members of its boards, agencies, commissions and committees. Any insurance or self-insurance maintained by the County, its elected officials, appointees, employees, volunteers and members of its boards, agencies, commissions and committees shall be excess of Contractor's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given (add user department and specify specific individual and title) to the County, except 10 days notice for non-payment of premium.

B. Right to Monitor and Audit

Access To Records. During all phases of the work and services to be provided hereunder, the Consultant agrees to permit duly authorized agents and employees of the County, to enter the Consultant's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Consultant will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

XI. PROPOSAL SUBMISSION

A. GENERAL

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, including all attachments, exhibits, schedules, and addenda (as applicable) and all concerns regarding this RFP have been satisfied.
2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. Hard copy proposals must be received by **no later than 3:00 pm (CST) on May 9, 2008**, at the Shelby County Government Purchasing Department, 160 N. Main Street, Suite 550, Memphis, TN 38103.
5. Proposer agrees to provide the County with any additional information it deems necessary to accurately determine ability to perform the Services proposed. Furthermore, submission of this proposal constitutes permission by this organization for the County to verify all information contained in the proposal. Failure to comply with any request for additional information may disqualify this organization from further consideration. Such additional information may include evidence of financial ability to perform.

B. PROPOSAL PRESENTATION

1. One (1) original copy (clearly identified as original) and six (6) copies of the proposal are required.
2. The package containing the original and copies must be sealed and marked with the Proposer's name and **"REDUNDANT POWER AND COOLING SOLUTION, RFP #08-004-80"** with due date and time indicated.
3. Proposals must be in ink. Erasures and "white-out" are not permitted. Mistakes may be crossed out, corrections typed adjacent and initialed in ink by the person signing the proposal. Please identify all attachments, literature and samples, etc., with your firm name and our bid number.
4. Proposals must be verified before submission as they cannot be withdrawn or corrected after being opened. The County will not be responsible for errors or omissions on the part of bidders in making up their proposals. A responsible officer or employee must sign proposals. Tennessee sales tax shall not be included in the Provider's proposal.

C. PROPOSAL FORMAT

Response to this RFP must be in the form of a proposal package that must be submitted in the following format: **Please download the attachment to this document.** The Proposal Response Sheet and Utilization Report (*required documents*) should be the first two pages of your written response.

1. Cover Page – Submit on letterhead stationary, signed by a duly authorized officer, employee, or agent of the organization/firm.
2. Utilization Report (*Separate Attachment Form*)
3. Comprehensive Response
 - a. Minimum Requirements
 - b. Services Required
(Specify if proposed solution meets or does not meet each requirement.)
4. Cost and Fees
 - a. Provide the applicable itemized fees and any commissions included in the proposal for the Services. Include all costs associated with providing the proposed solution.
 - b. Pricing must include three (3) years of Next Business Day maintenance coverage for all hardware components proposed. Air conditioning components must include three (3) years of Next Day maintenance coverage.
 - c. Explain any assumptions or constraints in a price proposal to perform the Services.
 - d. Explain any additional charges or fees in the proposal.
5. Experience of the Respondent.

A sufficient description of the experience and knowledge base of the Proposer to show the Proposer's capabilities should be included in the proposal. At a minimum, the description of the experience and knowledge base of the Proposer included in the proposal should include, but not necessarily be limited to, the following:

- a. A brief description of the history and mission of the Proposer, including the respondent's background and mission statement, the length of time the Proposer has been in business, a description of the Proposer's organizational structure and a description of the Proposer's customer make-up;
- b. A statement of how long the Proposer has provided services similar to the Services requested herein;
- c. A general description of the Proposer's experience and background in providing services similar to the Services requested herein;

- d. Any other relevant information about the experience and knowledge base of the Proposer which is deemed to be material.

6. References

References of the Proposer, including at least three (3) other clients for whom the Proposer has provided services similar to the Services (with preference given to clients comparable to Shelby County Government) and, for each such reference, the business name, the identification of a contact person, the title of the contact person and a telephone number.

7. Additional Information

- a. A description of any other resources available to the Proposer that will be useful in providing the Services.
- b. A description of the methods used by the Proposer to measure the satisfaction of its client.
- c. Any other relevant information about the capabilities of the Proposer deemed to be material.

XII. PROPOSAL EVALUATION AND SELECTION

A. Evaluation Process

- 1. Initial Review – All proposals will be initially evaluated to determine if they meet the following minimum requirements:
 - a. The proposal must be complete, in the required format, and be in compliance with all the requirements of the RFP.
 - b. Proposers must meet the Minimum Proposer Requirements outlined in Section II of this RFP.
- 2. Technical Review- Proposals meeting the above requirements will be evaluated on the basis of the following criteria:
 - a. Each proposal will be reviewed by an Information Technology Committee which may elect to schedule a personal presentation and interview with one or more of the bidders. After the review process is completed, this committee will recommend the successful bidder to the Division Director, Finance and

Administration, who makes the decision, subject to the approval of the contract by the Mayor and the Board of County Commissioners.

- b. All proposals submitted in response to this RFP will be evaluated based on the following criteria:
 - i. Qualifications of personnel;
 - ii. Ability to present a clear understanding of the nature and scope of the project;
 - iii. Project methodology;
 - iv. Previous experience in with similar projects;
 - v. Proposed cost to Shelby County Government; and
 - vii. Time frame for completion.

3. Oral Presentation.

The Shelby County Government reserves the right to interview, or require an oral presentation from, any respondent for clarification of information set forth in the Proposer's response. In this regard, at the discretion of the evaluation committee, some or all Proposers who submit a proposal in response to this RFP may be asked to submit to an interview or give an oral presentation of their respective proposals to the evaluation committee. If so, this is not to be a presentation restating the proposal, but rather an in-depth analysis of certain qualifications of the Proposer. The interview or oral presentation, if utilized, is intended to provide an opportunity for the Proposer to clarify or elaborate on its qualifications without restating the proposal. The interview or oral presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of the contract. If required, the time and location of such interview or oral presentation will be scheduled by the Administrator of Purchasing. Interviews and oral presentations are strictly an option of the Shelby County Government or its evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the responsibility of the Proposer. Selection will be based on determination of which proposal best meets the needs of the County and the requirements of this RFP.

Shelby County Government reserves the right to consider the vendor's EOC rating in all evaluations.

B. CONTRACT AWARD

Contract(s) will be awarded based on a competitive selection of proposals received. Proposers are advised that the lowest cost proposal will not necessarily be awarded the Contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor. The proposals submitted will be evaluated by the County. All decisions are made at the discretion of the County.

The contents of the proposal of the successful Proposer will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

The County reserves the right to negotiate any portions of the successful Proposer's fees and scope of work or utilize their own resources for such work.



Appendix A

